

# HOUSE BILL REPORT

## SSB 5187

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### As Reported by House Committee On:

Early Learning & Human Services  
Health & Human Services Appropriations & Oversight

**Title:** An act relating to the accountability of mental health professionals employed by an evaluation and treatment facility for communicating with a parent or guardian about the option of parent- initiated mental health treatment.

**Brief Description:** Concerning the accountability of mental health professionals employed by an evaluation and treatment facility for communicating with a parent or guardian about the option of parent-initiated mental health treatment.

**Sponsors:** Senate Committee on Human Services & Corrections (originally sponsored by Senators Becker, Keiser, Hargrove, Stevens and Carrell).

### Brief History:

#### Committee Activity:

Early Learning & Human Services: 3/17/11, 3/24/11 [DPA];

Health & Human Services Appropriations & Oversight: 3/28/11, 3/29/11 [DPA(APPH w/ o ELHS)].

### Brief Summary of Substitute Bill (As Amended by House)

- Requires evaluation and treatment facilities and inpatient facilities licensed under the chapters governing hospitals, private treatment facilities, and public and private facilities for the mentally ill to provide written and verbal notice of statutorily available treatment options to parents who bring minor children to the facilities seeking mental health treatment.
- Provides that evaluation and treatment facilities are subject to civil penalties of \$1,000 for failure to provide notice under the act.
- Authorizes the Department of Health to enforce notice requirements in facilities that are licensed under the chapters governing hospitals, private treatment facilities, and public and private facilities for the mentally ill.
- Requires inpatient facilities covered under the act to adopt policies and protocols regarding the notice requirements by December 1, 2011.

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

- Requires the Department of Social and Health Services to report to the Legislature by December 1, 2012, regarding the facilities' compliance with the provisions of the act.

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## HOUSE COMMITTEE ON EARLY LEARNING & HUMAN SERVICES

**Majority Report:** Do pass as amended. Signed by 9 members: Representatives Kagi, Chair; Roberts, Vice Chair; Walsh, Ranking Minority Member; Hope, Assistant Ranking Minority Member; Dickerson, Goodman, Johnson, Orwall and Overstreet.

**Staff:** Linda Merelle (786-7092).

### **Background:**

#### Evaluation and Treatment Facility.

An evaluation and treatment (E&T) facility is a public or private facility that is certified by the Department of Social and Health Services (DSHS) to provide emergency, inpatient, residential, or outpatient mental health E&T services for minors. An E&T facility must be certified by the DSHS. A facility may receive a "single-bed" certification, which is an exception to the E&T certification requirement for the entire facility.

If a minor, age 13 years or older, is brought to an E&T facility or hospital emergency room for immediate mental health services, a mental health professional must evaluate the minor's mental condition, determine whether he or she suffers from a mental disorder, and needs immediate inpatient treatment. If the mental health professional determines that the minor suffers from a mental disorder, that inpatient treatment is required, and the minor is unwilling to consent to voluntary admission, the facility may detain or arrange for the detention of the minor for up to 12 hours to enable a designated mental health provider to evaluate the minor for initial involuntary mental health treatment proceedings.

#### Parent-Initiated Treatment.

In 1998 the Legislature passed Substitute Senate Bill 6208 which contained provisions which allowed a parent to bring his or her minor child to an E&T facility and request that a mental health professional examine the minor to determine whether the minor had a mental disorder and was in need of inpatient treatment. This was referred to as "parent-initiated" treatment.

In 2003 the Legislature passed House Bill 1612 which contained a provision requiring an E&T facility to promptly provide written and verbal notice to parents or guardians of a minor child of all statutorily available treatment options, including parent-initiated treatment, when the parent or guardian sought to have his or her minor child treated at the facility. In addition to the treatment options, the notice was required to include procedures to be followed to utilize the available treatment options. No provider was obligated to provide treatment to a minor under the new provisions, and no provider could admit a minor to treatment unless it was medically necessary.

In 2005 the Legislature modified the provision regarding whether a provider was obligated to provide treatment to a minor under the parent-initiated provisions. A provider was not obligated to provide treatment to a minor, but the provider could not refuse to treat the minor solely on the basis that the minor had not consented to treatment.

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**Summary of Amended Bill:**

An E&T facility or a facility operating as an E&T facility under a single-bed certification must promptly provide written and verbal notice of all statutory available treatment options, including parent-initiated treatment, to every parent or guardian of a minor child when the parent or guardian seeks to have the minor child treated at the facility. The notice is only required once and must be documented by a signed acknowledgement of receipt by the parent or guardian.

The professional person in charge of the E&T facility or a hospital emergency room must provide notice of treatment options to a parent or guardian seeking treatment for a child if it is determined that the child suffers from a mental disorder.

An E&T facility or facility operating as an E&T facility under a single-bed certification is subject to a \$1,000 fine for failure to provide adequate notice. Failure by the professional person in charge of the facility or emergency room, or his or her designee, to comply with the notice provisions constitutes unprofessional conduct.

**Amended Bill Compared to Substitute Bill:**

The amended bill requires that only the professional person in charge, or his or her designee, is required to provide notice to parents or guardians regarding treatment options. An E&T facility or facility operating as an E&T facility under a single-bed certification is subject to a \$1,000 fine for failure to provide notice under the act. Failure by the person in charge of an E&T facility or an emergency hospital room, or his or her designee, to provide notice as required under the act constitutes unprofessional conduct.

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**Appropriation:** None.

**Fiscal Note:** Requested on March 24, 2011.

**Effective Date of Amended Bill:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.

**Staff Summary of Public Testimony:**

(In support) The purpose of this legislation is to let people know that they do have the right to have their child committed. It gives the parent the right to have them admitted for

evaluation. This should not be a huge problem to actually accomplish. This bill holds the professionals accountable if they do not provide this information. In the case of the Binion's son, no one ever informed the parents that parent-initiated treatment was an option for treatment of their son that was brought to facilities. Every place where help was sought, mental health professionals stated that because of age and without a determination that the juvenile was suicidal, the juvenile had control over his mental health. Parents love their children and will do anything to help them, and they must be given the opportunity to help them. There seems to be a consensus among mental health workers that the decision to seek treatment is up to the child. For some reason, the law is being blatantly ignored or mental health professionals are ignorant of the law. Children cannot smoke, get married, or make contracts until they reach a certain age. They are prohibited from doing these things because they are not mature enough to make certain life-altering decisions before they reach a certain age. When a child is not mentally competent, they cannot be allowed to make decisions about whether to receive treatment. Parents who love them must be able to make those decisions.

(In support with amendment) The age of consent is very controversial. There are many hospitals that will not follow the processes laid out in statute. Notifying the parents when they will not provide the treatment makes things difficult for the parent. The duty should fall on the agency rather than the individual professional. It is an issue that needs to be resolved.

(With concerns) Parents should be involved in children's treatment and have access to treatment. Facilities are willing to be held accountable for delivering the proper notice. The impact on the license of the professional means that person may not be able to work in the field again. The facility should be held accountable, but not the individual professional. There still are some bugs in the process.

(Opposed) None.

**Persons Testifying:** (In support) Senator Becker, prime sponsor; Willie Binion; and Deb Binion.

(In support with amendment) Seth Dawson, Washington State Psychiatric Association and Washington State Council of Child and Adolescent Psychiatrists.

(With concerns) Rick Weaver, Comprehensive Mental Health Center.

**Persons Signed In To Testify But Not Testifying:** None.

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## HOUSE COMMITTEE ON HEALTH & HUMAN SERVICES APPROPRIATIONS & OVERSIGHT

**Majority Report:** Do pass as amended by Committee on Health & Human Services Appropriations & Oversight and without amendment by Committee on Early Learning & Human Services. Signed by 10 members: Representatives Dickerson, Chair; Appleton, Vice Chair; Johnson, Ranking Minority Member; Schmick, Assistant Ranking Minority Member; Cody, Green, Harris, Kagi, Pettigrew and Walsh.

**Minority Report:** Do not pass. Signed by 1 member: Representative Overstreet.

**Staff:** Andy Toulon (786-7178).

**Summary of Recommendation of Committee On Health & Human Services  
Appropriations & Oversight Compared to Recommendation of Committee On Early  
Learning & Human Services:**

The Health and Human Services Appropriations and Oversight Committee recommended that a facility rather than the professional person in charge of the facility, or his or her designee, be responsible for the notice of treatment options to parents. The professional person in charge of the facility, or his or her designee, is no longer assumed to have committed unprofessional conduct for failing to provide notice of treatment options. Notice requirements for facilities operating as evaluation and treatment facilities under single-bed certifications are removed. Notification requirements for a parent or guardian seeking mental health treatment for his or her minor child is extended to cover facilities licensed under the chapters governing hospitals, private treatments facilities, and public and private facilities for the mentally ill.

A provision is added requiring inpatient facilities covered under the act to adopt policies and protocols regarding the notice requirements by December 1, 2011. The Department of Social and Health Services is required to provide a report to the Legislature by December 1, 2012, regarding the facilities' compliance with the adoption of policies and protocols regarding notice.

**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date of Amended Bill:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.

**Staff Summary of Public Testimony:**

(In support) This bill was initiated from very powerful and tragic stories of some constituents who testified in the policy committee. In looking into this situation, it became apparent that there are laws that should have prevented what happened to them. The bill is intended to ensure that parents get timely and accurate information. Many parents have had similar experiences. It has been a struggle getting providers to comply with the law.

(In support with concerns) We support the intent but find penalties on individual mental health professionals problematic. The facility should be held accountable rather than the individual provider. We support an amendment that has been drafted which places the accountability on the facilities. Facilities that are serving children through single-bed certifications do not need to be addressed in the bill because these facilities have already admitted the children. Inpatient facilities that are not evaluation and treatment centers should not be subject to fines for failing to provide notice. For these facilities, the Department of Health can enforce the parental notification provisions through their licensing authority.

(Opposed) None.

**Persons Testifying:** (In support) Senator Becker, prime sponsor.

(In support with concerns) Gregory Robinson, Washington Community Mental Health Council; Lisa Thatcher, Washington State Hospital Association; Carl Nelson, Washington State Medical Association; and Seth Dawson, Washington State Psychiatric Association.

**Persons Signed In To Testify But Not Testifying:** None.